

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:13-cr-43-02

v.

HONORABLE PAUL L. MALONEY

RICHARD EDWARD CLEVELAND,

Defendant.

_____ /

MEMORANDUM OPINION AND ORDER

Defendant Richard Edward Cleveland has filed a motion for modification or reduction of sentence pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to drug quantity. The United States Probation Office has filed an Eligibility Report indicating defendant appears to be ineligible for consideration of the modification of sentenced (ECF No. 86). No objections to the conclusions of the Eligibility Report have been filed.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines modified U.S.S.G. § 2D1.1, the Drug Quantity Table with regard to drug quantity, and U.S.S.G. § 2D2.1(b). These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10(c).

However, the defendant is not eligible for a sentence modification because he was

sentenced as a career offender. As a career offender, the defendant's sentencing guideline range was calculated under U.S.S.G. § 4B1.1, not under U.S.S.G. § 2D1.1 or 2D2.1. Therefore, Amendment 782 does not retroactively lower the defendant's sentencing guideline range. Accordingly,

IT IS HEREBY ORDERED that Defendant Richard Edward Cleveland's motion modification of sentence pursuant to 18 U.S.C. § 3582(c)(2) and for appointment of counsel (ECF No. 83) is **DENIED**.

Date: October 19, 2015

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge